BEFORE THE
Federal Communications Commission
Washington, D.C. 20554

In re	)	MM Docket No.
	)	
Microstation Radio Broadcast Service	)	RM-9208
	)	~~RM-9246~~

TO: The Commission

COMMENTS IN OPPOSITION TO PETITIONS FOR RULEMAKING

Bruce H. Campbell and Homer H. Hillis, Jr., partners in the FM Radio broadcast business in Oklahoma and Texas, do hereby respectfully submit these Comments in Opposition to Petitions for Rulemaking seeking the establishment of a "Microstation Radio Broadcast Service". These comments are filed within the extended time allotted for comments by June 1, 1999.

PRELIMINARY STATEMENT:

1. Campbell and Hillis, doing business as KRIG, Inc. and as Dove Media, Inc., own and operate small and medium market radio stations in Oklahoma and Texas. KRIG, Inc. resurrected three (3) "dark" radio stations in Oklahoma within the past six years. Campbell has been active in the commercial radio broadcasting business in Texas and Oklahoma for 36 years. His unique experience includes all facets of radio broadcasting including engineering (holder of the General Class Radiotelephone Operators' License), news, programming, on-air, sales, sales management, station management and ownership. Campbell also has a degree from Abilene Christian University in Abilene, Texas, (1968) with a major in Radio-Television Speech.

2. As a result of their hands-on experience in establishing successful small and medium market radio stations through start-ups and "turn-arounds", Campbell and Hillis believe they are able to provide special input on the subject of the proposed "Microstation Radio Broadcast Service".

COMMENTS:

1. It is our belief that careful consideration has not been given to the cost of regulating the new proposed service. We respectfully direct your attention to the Citizens Band Radio service debacle which has generated numerous complaints to the Commission and which is basically unregulated from the standpoint of output power levels, etc. due to the countless number of users versus the limited number of enforcement personnel. In like manner, we believe there will be a huge temptation for operators of "Microservice" FM stations to operate with effective radiated powers and tower heights above authorized limits. This would, indeed, be a monumental regulation problem, the lack of which would endanger the current commercial broadcasting industry, which has lived with careful enforcement for the life of the industry.

2. Some of the possible solutions to the obvious problem of regulation include the following: (a) Using annual regulatory fees applied to the new proposed service to pay for increased enforcement requirements, (b) Publication of standardized penalties for abuse of authorized parameters, and (c) Out-sourcing of the enforcement role to local chapters of the Society of Broadcast Engineers (S.B.E.).

3. We believe this third regulatory solution, out-sourcing of the enforcement role to local chapters of the S.B.E., is an attractive solution to additional enforcement requirements of the proposed new service! This dovetails with the concept of "self-inspection" presently handled by state broadcast associations and conforms to the general principle of using the private sector to perform functions which the public sector does not have the resources to fulfill. Perhaps S.B.E. chapters could be paid some annual fee based on the number of "Microradio" stations licensed within their sphere of influence. This method of regulation would be "Older Brother" instead of "Big Brother".

4. We believe that before such a service in implemented, the Commission should develop an "economic impact statement" which evaluates the impact of such a service on small and medium market radio broadcasters. No detailed evaluation has been made to project exactly how many of these stations would be authorized and how the mix of 1,000 watt and 100 watt stations would be determined. Would the Commission generate a Table of Allocations similar to the commercial FM and TV services or would the authorizations be handled like the AM service is presently done? Our experience indicates that staff engineers at the Commission are already over-loaded. Adding thousands of additional applications would completely over-whelm present staffing.

5. One of the dilemmas of this proposal is that it inherently would provide the most potential additional signals to the least densely populated areas. Therefore, when measured in terms of additional signals received per person on a nation-wide basis, using some of the projections for large market allocations contained in the NPRM, the actual

impact is probably in the neighborhood of a 2% increase or less! That seems like a very small change when considering the cost and the drastic alteration in regulatory approach.

6. One alternative would be to systematically allocate 1,000 watt or 100 watt stations to small communities which do not presently have local aural service. We have found that commercial stations as presently authorized are not generally viable in communities or 3,000 population or fewer. Those under-served communities might benefit from the allocation of "microradio stations". In addition, allocating low power FM's to small communities would prevent them from becoming "move-ins" on adjacent metropolitan areas.

7. It appears that no detailed study has been performed which would evaluate the economic viability of this new service. We realize that in opening "new technologies" it is not necessarily the government's role to provide complete economic evaluation, however if certain exclusions or limitations are imposed on the new service such as to prevent it from becoming "translator" facilities, it may be important to consider the economies of their operation. We would remind you of the initial restrictions imposed on Instructional Fixed Television Service (ITFS) which later had to be altered in order to encourage utilization and economic viability.

8. In that regard, it appears to us that there is little initial cost differential in constructing a low power FM station versus constructing a Class A FM facility. The transmission facilities may only be about half of the overall costs. Studio facilities and automation/computer equipment costs will be same regardless of which service is being

provided. In fact, the largest cost is the on-going cost of programming! This economic fact of life for broadcasters is the reason that 25-30% of radio stations in America use syndicated satellite formats to one extent or another and that probably another 25%+ utilize automation systems to some extent. It is natural to assume that many of these proposed micro-stations will have even more economic reason to want flexibility in the utilization of various programming sources. And this might include the possible re-broadcast of other commercial or non-commercial stations' signals in part or in whole.

9. From a business viewpoint, creation of a "network" of low power FM stations would be competitive with traditional commercial broadcasting as well as with satellite delivered digital radio (DARS). Imposing restrictions on re-broadcast or utilization of network feeds would hamper this economic advantage. Ownership restrictions or restrictions on L.M.A.'s would also hamper economic viability in this regard.

10. We believe utilization of this proposed new service by religious groups or other "affinity" groups as "network" repeaters or translators has significant economic advantage. Imposition of restrictions which would preclude this use would be counter-productive.

11. In the case of the example of proposed service for Denver, Colorado, mentioned in the NPRM (page 18, par. 44) who would decide whether Denver would receive one LP 1000 or four LP100 services? Would this be done with allocations or through some other first-come application basis?

12. Regardless of how the service is initially proposed, it is likely that if commercially viable, the ownership of this service will ultimately be consolidated by large companies. We know, for instance, that even though cellular telephone licenses were initially assigned using lotteries in order to maximize the diversity of ownership, most of them are now in the hands of a very few large telecommunications giants. This defeats the main reason given for the development of this service. (par. 1 and par. 86)

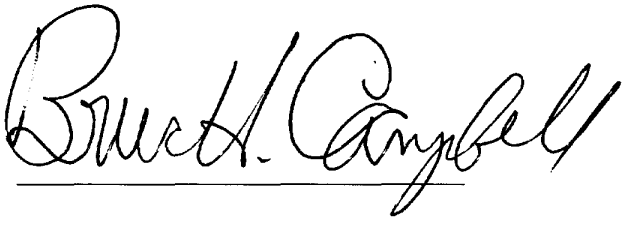
13. If this service is ultimately implemented, it is important that careful consideration be given to the methodology of handling multiple applicants. Legislative restrictions on handling mutually exclusive commercial applications may be at cross-purposes with the goal of fostering diversity of ownership in that use of the "spectrum auction" approach would appear to give advantage to wealthy, large corporations. One option might be to make all of these facilities strictly non-commercial.

CONCLUSION:

We believe that the Commission has not adequately considered the impact of this low power FM proposal in the following three areas: (1) Need for dramatically increased enforcement, (2) Economic impact on existing commercial broadcasting, and (3) the Measurable achievement of the desired goals versus the expected log-jam of the Commission's rather restricted personnel and work-load limits as it presently exists.

Therefore, we respectfully oppose the Rule Making in its current form until a more thorough investigation can be made of the overall impact of the proposal.

RESPECTFULLY SUBMITTED:



Bruce H. Campbell, Vice President May 28, 1999

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